

## The Practice of *Isbat Nikah* and Its Implications for Family Status in the Study of *Maslahah Mursalah*

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### Abstract

The phenomenon of marriages that are only carried out religiously without state registration still occurs a lot in Way Kenanga District, West Tulang Bawang Regency, causing unclear legal status of families and limited access to civil rights. This study aims to analyze the impact of the practice of marriage confirmation on family status from the perspective of *Maslahah mursalah* in Islamic law. The study used a qualitative method with case studies, data collection techniques through interviews, observations, and documentation, and was analyzed using a deductive approach using the theory of *Maslahah mursalah* as the main foundation. The results of the study indicate that marriage confirmation is effective in providing formal legality, strengthening family civil rights, and increasing the social legitimacy of married couples. This practice also fulfills the principles of *maqashid al-syari'ah*, especially in maintaining offspring and protecting individual rights. The study recommends the need to increase legal socialization programs, simplify marriage confirmation procedures, and provide financial support from the government for low-income communities, in order to expand the benefits of marriage confirmation for the welfare of society in a sustainable manner.

**Keywords:** Marriage Confirmation, Family Legal Status, Marital Legality, *Maslahah mursalah*, *Maqashid Sharia*.

### Abstrak

Fenomena perkawinan yang hanya dilakukan secara agama tanpa pencatatan negara masih banyak terjadi di Kecamatan Way Kenanga, Kabupaten Tulang Bawang Barat, menyebabkan ketidakjelasan status hukum keluarga dan keterbatasan akses hak-hak keperdataan. Penelitian ini bertujuan untuk menganalisis dampak praktik *isbat nikah* terhadap status keluarga dalam perspektif *Maslahah mursalah* dalam hukum Islam. Penelitian menggunakan metode kualitatif dengan studi kasus, teknik pengumpulan data melalui wawancara, observasi, dan dokumentasi, serta dianalisis dengan pendekatan deduktif menggunakan teori *Maslahah mursalah* sebagai landasan utama. Hasil penelitian menunjukkan bahwa *isbat nikah* efektif memberikan legalitas formal, memperkuat hak keperdataan keluarga, dan meningkatkan legitimasi sosial pasangan suami istri. Praktik ini juga memenuhi prinsip-prinsip *maqashid al-syari'ah*, terutama dalam menjaga keturunan dan melindungi hak-hak individu. Penelitian merekomendasikan perlunya peningkatan program sosialisasi hukum, penyederhanaan prosedur *isbat nikah*, serta dukungan pembiayaan dari pemerintah untuk masyarakat berpenghasilan rendah, guna memperluas manfaat *isbat nikah* bagi kemaslahatan masyarakat secara berkelanjutan.

**Kata Kunci:** *Isbat nikah*, Status Hukum Keluarga, Legalitas Perkawinan, *Maslahah mursalah*, *Maqashid Syaria*.

## INTRODUCTION

The marriage is a sacred institution that holds an important position in the social, religious, and legal life of Indonesia. Based on the provisions of Law Number 1 of 1974 concerning Marriage, every marriage must be officially registered before an authorized official to obtain legal certainty.<sup>1</sup> However, the phenomenon of marriage conducted only religiously without state registration, often called *nikah sirri*, is still widely found in various regions. This condition leads to various problems, such as the non-guarantee of the rights of the wife and children, difficulties in managing population administration, and issues of inheritance rights.<sup>2</sup> To overcome this, the law provides the mechanism of *isbat nikah* (marriage validation), which is the process of legalizing a non-registered marriage in the Religious Court so that it obtains formal legal recognition. *Isbat nikah* becomes important as an instrument for realizing legal justice and social protection for families.<sup>3</sup>

Similar to this research, the practice of *isbat nikah* studied focuses on Way Kenanga District, West Tulang Bawang Regency, Lampung Province. This district is one of the areas that shows a quite high number of *isbat nikah* cases every year. Many married couples have been married religiously for a long time, but due to ignorance, economic factors, or geographical distance from the administrative center, they do not carry out official registration at the Religious Affairs Office (KUA). They only realize the importance of official marital status when their children need birth certificates, want to register for school, or when they need other legal documents. This encourages the people of Way Kenanga to pursue *isbat nikah*, either individually or through mass *isbat nikah* programs initiated by the local government or legal aid institutions.

Chronologically, the cases found in Way Kenanga District originate from couples who have been married religiously for years but do not yet have official marriage documents. When they need public services such as children's education, health services, or registration for social assistance, the absence of a marriage certificate becomes a major obstacle. Many of these couples eventually submit an *isbat nikah* application to the Religious Court, either independently or through a mobile court program facilitated by the Religious Court and the KUA. After the *isbat nikah* petition is granted, the couple then registers their marriage at the local KUA and obtains an official marriage certificate. This process not only requires time and money but also a good understanding of the law, which is unfortunately still low among rural communities.

The problems that then arise from this phenomenon become the focus of this research, namely: first, what is the impact or effectiveness of the *isbat nikah* practice on

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<sup>1</sup> Dinda Ediningsih Dwi Utami and Taufik Yahya, "Akibat Hukum Nikah Siri Terhadap Hak Anak Dan Isteri Ditinjau Dari Kompilasi Hukum Islam," *Zaaken: Journal of Civil and Business Law* 3, no. 2 (2022): 228–45.

<sup>2</sup> Muhamad Dwi Nur Arifin, "Analisa Yuridis Dan Masalah Mursalah Terhadap Pemasangan Polisi Tidur Di Kabupaten Ponorogo" (PhD Thesis, IAIN Ponorogo, 2024), <https://etheses.iainponorogo.ac.id/27592/>.

<sup>3</sup> Nur Isti Fadiah et al., "Tajdid Nikah: Legal Analysis, Ulama Perspectives, and *Maslahah mursalah* (A Case Study in East Lampung Regency)," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam* 10, no. 1 (2025): 95–110.

the family status from a social and legal perspective in Way Kenanga District; second, how can the practice of *isbat nikah* be explained using the *Maslahah mursalah* approach in Islamic law. This formulation of the problem is important to see the extent to which *isbat nikah* provides legal and social protection to families, and how the legitimacy of Islamic *sharia* can encourage the strengthening of family rights at the local level.

In analyzing the problem, this research uses the theory of *Maslahah mursalah* as the main analytical framework.<sup>4</sup> *Maslahah mursalah* is a concept in *ushul fiqh* that refers to a public interest (*maslahah*) that is not explicitly mentioned in the *nash* (Qur'an and Hadith), but is in line with the basic principles of *sharia*.<sup>5</sup> This *maslahah* is considered valid if it does not contradict existing *shar'*i evidence and brings real benefits to mankind. With the *Maslahah mursalah* approach, the practice of *isbat nikah* is interpreted not only from the aspect of formal legality but from the perspective of social benefit, protection of individual rights, and the effort to maintain social order in accordance with Islamic values.<sup>6</sup>

This research is important to conduct because the practice of *isbat nikah* is not only related to administration or official documents but is also closely related to the protection of human dignity, children's rights, women's rights, and social stability.<sup>7</sup> Furthermore, in the context of communities that still experience limited access to legal and state administration services, such as in Way Kenanga, this research can provide an understanding of how Islamic law can be present in a *solutive* way in the real life of the community. By providing a sharp analysis of this social reality, this research is expected to contribute to the formation of regulations that are more just and responsive to the needs of the grassroots community.

Research on the practice of *isbat nikah* from the perspective of *Maslahah mursalah* has been carried out a lot before, indicating the high urgency of discussing this topic both legally and socio-religiously. One relevant study was conducted by Aziz (2024), which analyzed the effectiveness of the implementation of mobile *isbat nikah* in Tinambung District, Polewali Mandar Regency. This research emphasizes how mobile *isbat* services can increase community access to the legality of marriage, especially for those who live far from the center of legal services. *Maslahah mursalah* analysis is used to show that the implementation of mobile sessions meets the collective needs of the community efficiently and equitably.<sup>8</sup> In a more normative context, Aziz et al. examined

<sup>4</sup> Muhammad Zanadin Ziddan Ghazali, "Analisis Rangkap Jabatan Perangkat Desa Perspektif Permendagri Nomor 67 Tahun 2017 Dan Masalah Mursalah (Studi Desa Kenalan Kabupaten Magelang)" (PhD Thesis, IAIN SALATIGA, 2024), <http://e-repository.perpus.uinsalatiga.ac.id/id/eprint/20328>.

<sup>5</sup> Habib Shulton Asnawi and M. Anwar Nawawi, *Dinamika hukum perkawinan di Indonesia tinjauan hukum keluarga Islam terhadap legalitas perkawinan kepercayaan penghayat*, Edisi pertama (Bildung, 2022).

<sup>6</sup> Habib Ismail and Nur Alfi Khotamin, "Faktor Dan Dampak Perkawinan Dalam Masa Iddah (Studi Kasus Di Kecamatan Trimurjo Lampung Tengah)," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam* 2, no. 1 (2017): 135–60.

<sup>7</sup> Almirah Meida Risfina et al., "Government Policy in Handling Rohingya Refugees Based on Masalah Mursalah Perspective," *Islamica: Jurnal Studi Keislaman* 18, no. 2 (2024): 75–94.

<sup>8</sup> Sherina Mutiara Puteri Aziz, "Efektivitas *Isbat nikah* Keliling Terhadap Aksesibilitas Bagi Masyarakat Kecamatan Tinambung Kabupaten Polewali Mandar (Analisis *Maslahah mursalah*)" (diploma, Universitas

the relationship between the legality of *isbat nikah* with Islamic law and Indonesian civil law from the *Maslahah mursalah* perspective. Through a comparative juridical approach, this research highlights the position of *isbat nikah* as a meeting point between state regulations and the principles of public interest (*maslahah*) in Islamic *sharia*. The main focus is on the legal legitimacy of *isbat nikah* theoretically, but it has not deeply touched upon the social dynamics of the grassroots community.<sup>9</sup> Another study by Hidayatullah (2022) in Situbondo evaluated the implementation of integrated *isbat nikah* court sessions through the *Maslahah mursalah* framework. This research shows that collaboration between the Religious Court, KUA, and local government can expand the public interest (*maslahah*) through integrated services. However, the study focuses more on the administrative aspects of the mass trial program, not an analysis of the change in the family's social structure after *isbat*.<sup>10</sup> Furthermore, Al Haq (2019) also highlighted the implementation of integrated *isbat nikah* in Sampang from the perspective of *ushul fiqh*. He classified the benefits of *isbat* as part of *maslahah hajiyyat*, which are secondary needs that are important to prevent difficulties in life. However, the scope of the study area is limited to institutional data without deep exploration of the local sociocultural conditions of the community.<sup>11</sup> As for the research by Kartini and Hidayat (2023), it critically highlights the case of the rejection of an *isbat nikah* application by the Pemalang Religious Court. The focus lies on the legal consequences for the status of children and joint property if the *isbat* application is not granted. Although normatively important, this research does not discuss the success of the *isbat* practice itself in improving socio-legal protection for the community.<sup>12</sup>

From the five previous studies, it can be explained that studies on *isbat nikah* from the perspective of *Maslahah mursalah* generally still revolve around normative or administrative aspects, such as legal legality, the form of mobile court services, or procedural constraints faced by applicants. Most of these studies have not detailed the socio-legal implications of *isbat nikah* on the change in family structure and dignity at the grassroots level, especially in the context of rural communities that still have a strong dependence on custom and limited access to legal services.

This research offers novelty by placing the practice of *isbat nikah* in Way Kenanga District, West Tulang Bawang Regency, as the focus of an applied field study. By using the *Maslahah mursalah* approach, this research does not only examine the legal procedure

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Islam Negeri Alauddin Makassar, 2024), [https://repositori.uin-alauddin.ac.id/27678/?utm\\_source=chatgpt.com](https://repositori.uin-alauddin.ac.id/27678/?utm_source=chatgpt.com).

<sup>9</sup> Abdul Aziz, Ghufon Maksum, dan Iqbal Subhan Nugraha, "Isbat nikah Dalam Legalitas Hukum Islam Dan Perdata Di Indonesia Perspektif *Maslahah mursalah*," *Tasyri': Journal of Islamic Law* 3, no. 2 (20 Juli 2024): 361–82, doi:10.53038/tsyr.v3i2.141.

<sup>10</sup> Moh Hidayatullah, "Analisis *Maslahah mursalah* Terhadap *Isbat nikah* Terpadu Di Pengadilan Agama Situbondo," *Rechtensstudent* 3, no. 1 (28 April 2022): 106–15, doi:10.35719/rch.v3i1.99.

<sup>11</sup> Mu'tashim Al Haq, "Analisis *Maslahah mursalah* Terhadap Sidang *Isbat nikah* Terpadu Oleh Pengadilan Agama Sampang" (undergraduate, UIN Sunan Ampel Surabaya, 2019), [http://digilib.uinsa.ac.id/30433/?utm\\_source=chatgpt.com](http://digilib.uinsa.ac.id/30433/?utm_source=chatgpt.com).

<sup>12</sup> Idah Farida, Nur khoirin Yd, dan Ummul Baroroh, "Isbat nikah Dan Akibat Hukumnya (Studi Penolakan Permohonan *Isbat nikah* Di Pengadilan Agama Pemalang Tahun 2021)," *LEX et ORDO Jurnal Hukum Dan Kebijakan* 1, no. 1 (3 Oktober 2023): 84–90.

of *isbat nikah* but also holistically analyzes its implications for the legal status of the family, social honor, the protection of children's and women's rights, and its contribution to the transformation of the legal culture in rural communities. Another novelty lies in the effort to integrate the values of *maqāṣid al-syarī'ah* into local social dynamics, while also highlighting how collaboration between the state and civil society can form a more responsive, just, and public-interest-oriented legal protection system. Based on the background and problems, the objective of this research is to deeply analyze the impact or implications of the *isbat nikah* practice on the family status from a social and legal perspective in Way Kenanga District, and to examine this practice within the framework of *Maslahah mursalah*, in order to assess the extent to which the practice of *isbat nikah* can be a legal solution that brings public interest (*maslahah*) to the local families and community.

## RESEARCH METHOD

This research uses a qualitative approach with a case study design, as the focus of the study lies in the real-life practice of *isbat nikah* (marriage validation) occurring in Way Kenanga District, West Tulang Bawang Regency. This approach aims to understand the social and legal phenomena deeply, based on the direct experiences of the subjects involved. The case study was chosen to fully describe the local context and examine the dynamics of *isbat nikah* practice within the *Maslahah mursalah* perspective.

The data collection techniques used in this research include interviews, observation, and documentation. Interviews were conducted with married couples who had undergone *isbat nikah* and officials from the Religious Affairs Office (KUA), to obtain information about the background, motivation, and the social and legal impacts of the process. Observation was carried out on the implementation of *isbat nikah* services and registration at the KUA to see the administrative process and social interactions taking place. Meanwhile, documentation focused on collecting supporting documents such as copies of the *isbat* decree from the Religious Court, marriage certificates resulting from *isbat*, and other administrative forms as complementary data that strengthens field findings. The collected data were analyzed using a descriptive-qualitative method through a deductive approach.<sup>13</sup> Analysis was performed by reducing the data according to the research focus, then arranged into certain themes such as legality, rights protection, and *maslahah* (public interest). Subsequently, the data were interpreted using the *Maslahah mursalah* theory as the main analytical lens. Data validity was maintained through triangulation of techniques and sources, which is by comparing the results of interviews, observation, and documents, to ensure the accuracy and objectivity of the conclusions produced.

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<sup>13</sup> Sunggono Bambang, *Metodologi Penelitian Hukum* (Rajawali Pers, 2009), <http://katalogdiarpuskutaitanegara.perpusnas.go.id/detail-opac?id=10439>.

## RESULTS AND DISCUSSION

### General Overview of *Isbat nikah* Practice in Way Kenanga District

The practice of *isbat nikah* (marriage validation) in Way Kenanga District, West Tulang Bawang Regency, emerges as a response to a complex social situation where many married couples still conduct their marriage only religiously without state registration. This phenomenon reflects the reality that marriage registration in rural areas has not yet become a priority for some community members. They assume that a religious marriage is valid, sufficient, and meets social norms. However, along with the increasing need for administrative requirements and access to civil rights, the awareness of the importance of marriage legality is starting to grow, albeit belatedly.<sup>14</sup>

In this context, *isbat nikah* becomes a much-needed solution. *Isbat nikah* is the process of legalizing a previously unregistered marriage through an application mechanism at the Religious Court (*Pengadilan Agama*). This process is important because without official registration, couples cannot obtain legal documents such as the marriage book (*buku nikah*), which is the basis for various administrative needs. In Way Kenanga District, the practice of *isbat nikah* is not just a formal-legal procedure but also concerns the social, moral, and spiritual dimensions of the community.

Bandarsyah, S.H., M.Pd., the Head of the Religious Affairs Office (KUA) of Way Kenanga District, explained that the rate of *isbat nikah* in his area is relatively high. He mentioned that the mass *isbat nikah* program is the most effective way to reach rural communities who have limited access to legal services. In his interview, he stated:

*“We hold mobile isbat nikah sessions in collaboration with the Religious Court to reach remote communities who cannot come to the office. This is very effective in overcoming distance and cost barriers.”*

This statement indicates an awareness on the part of the KUA to not only execute regulations but also to ensure that people in remote areas can still access their legal rights. The collaborative approach among the KUA, Religious Court, and local government strengthens the legal service system based on local needs.

From the perspective of KUA staff, Ahmad Bahrudin, S.H., provided an explanation that reinforces the urgency of *isbat nikah* in this area. He conveyed that many people only process *isbat nikah* after experiencing difficulties when managing a child's birth certificate or when they want to get BPJS (social security/health insurance) services. He revealed:

*“Many people here only process isbat nikah after their children need a birth certificate for school or to apply for BPJS. Previously, they thought that religious marriage alone was sufficient.”*

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<sup>14</sup> Husain Fadhil Arrasyid dkk., “Sosialisasi Pembinaan Keluarga Masalah Kampung Sriwijaya Mataram Sebagai Bentuk Antisipasi Meningkatnya Angka Perceraian Di Kabupaten Lampung Tengah,” *ABDI MAKARTI* 3, no. 1 (2024): 54–64.

This reality illustrates that lack of legal knowledge is a major factor causing people to postpone marriage registration. In addition, economic and geographic factors also play a large role.<sup>15</sup> The distance between the community's residence and public service offices becomes a real barrier in the marriage registration process. Therefore, *isbat nikah* becomes a relevant alternative, as it can retroactively change the legal status of the marriage through a relatively simple process.<sup>16</sup> A couple who became one of the informants in this study provided a testimony that perfectly describes the general condition of the community. Mr. R and Mrs. S, a couple married in 2005, admitted that they only processed *isbat nikah* after their child was about to enroll in secondary education and faced administrative constraints. Mr. R explained:

*"We got married in 2005, but at that time, it wasn't immediately registered at the KUA because we lived far away and didn't know the procedure. We only had a religious marriage with the ustaz (religious teacher) in the village."*

Meanwhile, Mrs. S added:

*"We felt it was not a problem before. But when our child wanted to enter high school and was asked for a birth certificate with the father's name, it turned out we couldn't get it. From there, we started to panic and looked for information about isbat nikah."*

This quote confirms that *isbat nikah* is present not merely to pursue legal formality but also as a practical family necessity in social life. After participating in the mass *isbat nikah*, the couple finally obtained their marriage book and could complete all their family's administrative documents. They admitted they felt calmer and socially recognized.<sup>17</sup>

*"We felt relieved after getting the marriage book. It felt legitimate in the eyes of the law, not just religion. We are also calmer because now all matters can be handled officially."*

Procedurally, the mechanism of *isbat nikah* in Way Kenanga District is carried out by submitting an application to the Religious Court. The couple is asked to include proof of religious marriage, a statement letter from a religious leader, photocopies of ID cards (KTP), Family Cards (KK), and a statement that the marriage has never been registered. After the hearing, the Religious Court issues a decree that is used to register the marriage at the local KUA. However, as explained by Ahmad Bahrudin:

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<sup>15</sup> Muhammad Kholid et al., "Relasi Suami Istri Dalam Mewujudkan Resiliensi Keluarga Studi Kasus Suami Narapidana Di Lapas Narkotika Bandar Lampung," *ASASI: Journal of Islamic Family Law* 5, no. 2 (2025): 120–35.

<sup>16</sup> Qory Zakirah Anshori and Fauziah Lubis, "The Rights of Children from Illegal Marriages of Indonesian Migrant Workers (TKI) in Selangor, Malaysia: A Review from the Perspective of Child Protection Law," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam*, 2025, 11–26.

<sup>17</sup> Agus Hermanto et al., "Penerapan Batas Usia Pernikahan Di Dunia Islam: Review Literature," *At-Tahdzib: Jurnal Studi Islam Dan Muamalah* 9, no. 2 (2021): 2.

*“The isbat procedure is actually not difficult, as long as the documents are complete. But indeed, the cost and the community’s understanding are still obstacles. That’s why the mass isbat nikah program is very helpful.”*

The mass *isbat nikah* program has proven to be a strategic solution to overcome the barriers faced by the community.<sup>18</sup> In this case, the ease of procedure, cost subsidies, and assistance from KUA and Religious Court officials are the keys to success. On the other hand, the approach of socialization and legal education is important to increase community awareness from the outset. The practice of *isbat nikah* also has an interesting cultural dimension to observe. In rural communities like Way Kenanga, marriage is not only considered a legal bond but also a part of family honor. Therefore, the delay in marriage registration can affect the social image of the couple and their children. Bandarsyah explained:

*“This legality also impacts family dignity. Many couples who initially felt inferior or illegitimate finally feel more socially and spiritually calm after having the official documents.”*

The general overview of the *isbat nikah* practice in Way Kenanga District reflects not only administrative issues but also interconnected social, economic, and cultural aspects. *Isbat nikah* acts as a bridge between state law and the reality of rural communities, and serves as an instrument of public interest (*maslahah*) in a contemporary context.

### **Implications of *Isbat nikah* Practice on Family Status**

The practice of *isbat nikah* (marriage validation) in Way Kenanga District does not merely resolve administrative issues but brings significant impact on the social and legal status of the family. This impact can be viewed from two main sides: social implications, which include community recognition and family honor, and legal implications, which relate to civil rights, the status of children, and the protection of women within the household.<sup>19</sup> Before undergoing *isbat nikah*, many couples had doubts about the validity of their position in the community’s social structure. Although the marriage was considered valid religiously, the absence of official documents meant their family lacked state recognition. This affected how the community viewed their relationship status, especially when dealing with formal institutions such as schools, hospitals, or government agencies. The couple (Mr. R and Mrs. S) testified that before obtaining official legality, they felt their family status was not fully recognized. This became particularly evident when their child was about to enroll in secondary school and was asked to show a birth certificate that legitimately listed the father’s name.

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<sup>18</sup> Muhammad Zakky Elyasin and Masrokhin Masrokhin, “Pendapat Kepala KUA Di Kabupaten Jombang Dan Pastor Kepala Paroki Santa Maria Jombang Tentang Pencatatan Semua Agama Di Kantor Urusan Agama,” *JOURNAL SAINS STUDENT RESEARCH* 3, no. 5 (2025): 241–51.

<sup>19</sup> Bustanul Arifin et al., “Mubadalah in the Transformation of Identity Politics in Indonesia: Challenges and Opportunities,” *Journal of Islamic Mubadalah*, June 25, 2024, 62–78, <https://doi.org/10.70992/j56wzj52>.



*“When our child wanted to enter high school and was asked for a birth certificate with the father’s name, it turned out we couldn’t get it. From there, we started to panic and looked for information about isbat nikah.”*

This quote reflects the direct link between marriage registration and the basic rights of children. Without legality, children of religiously-married-only couples lack clear legal status. This can lead to social stigma and limit them from fundamental rights such as education, social security, and future inheritance rights. From a legal perspective, the marriage certificate (*akta nikah/buku nikah*) becomes the basis for access to the entire state administrative system.<sup>20</sup> Bandarsyah, S.H., M.Pd., Head of the Way Kenanga District KUA, stated that *isbat nikah* provides legal legitimacy to the married couple and renders their children legitimate in the eyes of the state.

*“After isbat nikah is ratified by the Court, they can immediately register the marriage at the KUA and obtain an official marriage book. This facilitates many matters, including processing the children’s birth certificates and claiming inheritance rights.”*

Within the framework of Islamic civil law, a marriage document serves as valid evidence that allows the husband or wife to claim their rights in court, whether related to maintenance (*nafkah*), inheritance, or legal protection in the event of divorce. Without it, the position of women and children in the family is legally very vulnerable.<sup>21</sup> As acknowledged by Ahmad Bahrudin, S.H., KUA staff:

*“We often encounter couples who have been married for dozens of years but are not yet officially registered. After participating in the isbat nikah program, they only realize the importance of legal documents such as the marriage book.”*

Thus, *isbat nikah* changes the couple’s legal status from “unregistered” to “legally registered,” which means they have full legitimacy as husband and wife in the eyes of the law. This is crucial in the context of a national legal system based on written evidence. Furthermore, this legalization also opens access to public services such as BPJS Kesehatan (National Health Insurance), educational subsidies, and other population administration matters.<sup>22</sup> Furthermore, this legality also affects the social structure of the family. In rural communities like Way Kenanga, marital status is not only about law but also touches upon aspects of honor (*izzah*) and family integrity. Many couples feel

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<sup>20</sup> Novia Sari et al., “Opportunities and Challenges of Isbat Talak in Divorce in Indonesia and Abroad,” *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 19, no. 2 (2021): 106–20.

<sup>21</sup> Okti Nur Hidayah and Ahmad Rezy Meidina, “Analysis of the Rights and Obligations of Husband and Wife in the Compilation of Islamic Law: A Review from the Perspective of Gender Equality,” *Legitima: Jurnal Hukum Keluarga Islam* 6, no. 1 (2023): 1–15.

<sup>22</sup> Sigit Siswomiharjo et al., “Analysis of Judges’ Decisions in Marriage Isbat Cases According to the Perspective of Positive Law and Islamic Law (Case Study No. 076/Pdt. P/2022/Pa. Prob),” *Al Mashaadir: Jurnal Ilmu Syariah* 4, no. 1 (2023): 30–41.

insecure in social forums because their marriage status is unregistered. By possessing the official documents, they feel more respected and fully accepted within their community.<sup>23</sup>

*“We now feel legitimate in the eyes of the law, not just religion. Our children also don’t feel ashamed because all their documents are official.”*

Theologically and socially, this is part of restoring family dignity, which is in line with the concept of *maqāṣid al-syarī’ah* in preserving progeny (*hifz al-nasl*) and honor (*hifz al-’ird*). In this regard, the practice of *isbat nikah* is not just about fulfilling an administrative element, but also serves as a strategic instrument for maintaining social order and *sharia* values in community life. Another significant implication is the protection of women within the household.<sup>24</sup> In the context of *nikah sirri* (unregistered marriage), women are often in a legally weak position. It is not uncommon for them to lack access to maintenance rights (*nafkah*), inheritance, or legal protection in domestic conflicts. After *isbat nikah* is carried out and the marriage is registered, the woman’s position in the family becomes stronger. She gains the legal standing that allows her to secure her rights based on a valid legal foundation.<sup>25</sup> This was also felt by Mrs. S, who admitted that before having the marriage book, she felt legally powerless.

*“I was afraid that if something happened one day, I wouldn’t have proof that I was the legitimate wife. But now after having the marriage book, I feel calmer and have legal support.”*

From the aspect of protecting civil rights, *isbat nikah* provides a positive domino effect on all family members. After validation, the family can fully enter the population administration system. They can print the Family Card (KK), obtain a KTP (ID card) with a legitimate married status, and access government-provided social assistance. This is where the function of public interest (*kemaslahatan publik*) from *isbat nikah* is seen, which impacts not only individuals but also the social system broadly. The implications of *isbat nikah* on family status are very real and multidimensional. It provides legal clarity, social recognition, *shar’i* protection, and access to civil rights that were previously unobtainable. *Isbat nikah* is a tangible form of unifying state law and the values of Islamic *sharia* that brings public interest (*maslahah*) to families at the grassroots level.

#### **Analysis of Maslahah mursalah on the Practice of Isbat nikah**

The prevalent practice of *isbat nikah* (marriage legalization) in Way Kenanga Sub-district cannot be separated from its encompassing social and legal context. This phenomenon needs to be further examined through the perspective of Islamic law, specifically by employing the *Maslahah mursalah* approach. This concept in *Ushul Fiqh*

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<sup>23</sup> Asbjørn Storgaard, “Access to Justice Research: On the Way to a Broader Perspective,” *Oñati Socio-Legal Series* 13, no. 4 (2023): 1209–38.

<sup>24</sup> Mahmud Huda, *Yurisprudensi Isbat nikah Dalam Pasal 7 Kompilasi Hukum Islam*, 2014, <http://journal.unipdu.ac.id/index.php/religi/article/view/414>.

<sup>25</sup> Ramdani Wahyu Sururie, “Polemik Di Seputar Hukum *Isbat nikah* Dalam Sistem Hukum Perkawinan Indonesia,” *Al-Manahij: Jurnal Kajian Hukum Islam* 11, no. 2 (2017): 233–46.

(principles of Islamic jurisprudence) allows for the formulation or implementation of a law that lacks explicit textual evidence in the Qur'an and Hadith, yet provides tangible benefit and does not contradict the principles of *Shari'a*. In this context, *isbat nikah* becomes a highly relevant practice for analysis through the framework of *Maslahah mursalah* because it emerges as a response to the social-legal needs of the community that are not served by formal legal mechanisms preventatively.<sup>26</sup>

*Maslahah mursalah* is defined as a form of pure benefit that is neither directly rejected nor supported by a *nash* (textual evidence), but is relevant to the general objectives of *Shari'a* (*maqāṣid al-syarī'ah*). Scholars like Imam al-Ghazali and Imam al-Syatibi acknowledge that *Maslahah mursalah* can be a basis for legal enactment if it brings benefit and does not violate the fundamental principles of Islam. In this regard, the practice of *isbat nikah* meets these criteria because it is capable of providing legal and social protection to individuals and strengthening the family structure, which is a main element of society.<sup>27</sup>

One of the highly relevant *maqṣad syarī'ah* in the practice of *isbat nikah* is *hifz al-nasl* (safeguarding progeny/lineage). Through the legalization of marriage via *isbat*, children born from unrecorded marriages gain legal recognition of their lineage (*nasab*). This is extremely important in the context of Islamic law, as the clarity of lineage is the foundation for many civil rights, such as inheritance, maintenance, and guardianship in marriage. As stated by Bandarsyah, S.H., M.Pd., Head of the Way Kenanga Religious Affairs Office (KUA):

*“After the isbat nikah is ratified by the Court, they can immediately register the marriage at the KUA and obtain an official marriage certificate. This facilitates many matters, including processing children’s birth certificates and claiming inheritance rights.”*

This quote indicates that the practice of *isbat nikah* contributes significantly to ensuring the legal continuity of children's and families' rights. Within *maqashid shariah*, safeguarding progeny is not merely about biological validity, but also ensuring that children grow up in a socially and legally stable family structure. The implications of *hifz al-nasl* are directly felt by the community. As revealed by Mr. R, a key informant who participated in the mass *isbat nikah* program:

*“I used to worry that our children would be considered children born out of wedlock because there was no marriage certificate. Now after the isbat, the children’s birth certificates have been issued, and their status is clear.”*

This statement demonstrates the importance of *shar'i* protection for children so that they do not become victims of their parents' ignorance or limited access to formal

<sup>26</sup> Euis Nurlaelawati, “Pernikahan Tanpa Pencatatan: *Isbat nikah* Sebuah Solusi?,” *Musāwa Jurnal Studi Gender Dan Islam* 12, no. 2 (2013): 261–77.

<sup>27</sup> Salman Abdul Muthalib, “Pengesahan *Isbat nikah* Perkawinan Poligami: Kajian Putusan Nomor 130/Pdt. G/2020/Ms. Bna,” *El-Usrah: Jurnal Hukum Keluarga* 5, no. 2 (2023): 224–38.

law. *Isbat nikah* in this case is a form of legal *ijtihad* (independent reasoning) that brings tangible benefit amid the limitations of the marriage registration system. Furthermore, the practice of *isbat nikah* also embodies the value of *hifz al-'ird* (safeguarding honor and dignity). In society, the legal status of a family is closely related to social dignity. Couples without official documents often feel insecure and even face stigma from the community. After obtaining a marriage certificate, the couples feel more recognized, both by the state and their social environment. This was expressed by Ahmad Bahrudin, S.H., a KUA staff member:

*“After getting the marriage certificate, they are more confident, especially when dealing with government agencies. So, this is not just about a document; it’s also about self-confidence and social recognition.”*

In the view of *Maslahah mursalah*, the restoration of dignity such as this is part of the protection of basic human rights that is in line with the objectives of *Shari’a*. Legally valid marriages will protect women from vulnerabilities, such as abandonment, exploitation, or loss of rights in cases of divorce. Therefore, *isbat nikah* can be seen as a *shar’i* instrument to prevent *mafsadah* (social harm/damage) caused by the lack of formal legality. Another relevant dimension is *hifz al-nafs* (safeguarding life and welfare). With the legality resulting from *isbat*, families have access to health services (such as BPJS), social assistance, and population documents that support the quality of life. In the long term, this improves the welfare and resilience of the family as the basic unit of society. The statement of Mrs. S reinforces this:

*“We feel relieved after getting the marriage certificate. It feels legitimate in the eyes of the law, not just religion. We are also more at ease because now all matters can be officially handled.”*

The benefit generated from *isbat nikah* is not only individual but also collective. When more families have formal legality, population data becomes more accurate, the distribution of social assistance becomes fairer, and the potential for inheritance conflicts can be minimized. From the perspective of legal development, this practice becomes a strategy for harmonization between Islamic law and a modern, administrative-based state system.<sup>28</sup> Although *isbat nikah* is not explicitly mentioned in the Qur’an or Hadith, its existence actually reflects the flexibility of *Shari’a* in responding to evolving social needs. This is where the strength of the *Maslahah mursalah* approach lies: it is not rigid but contextual. It evaluates the law from the perspective of its benefit to humanity, as long as it does not conflict with the basic principles of *Shari’a*.<sup>29</sup>

In practice, the success of this approach also depends on the legal institution’s sensitivity to social realities. In Way Kenanga Sub-district, the existence of the mass *isbat*

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<sup>28</sup> Mukhtaruddin Bahrum, “Legalisasi Nikah Sirri Melalui *Isbat nikah* Menurut Kompilasi Hukum Islam,” *Jurnal Diskursus Islam* 1, no. 2 (2013): 210–30.

<sup>29</sup> Asriadi Zainuddin, “Legalitas Pencatatan Perkawinan Melalui Penetapan *Isbat nikah*,” *Al-Mujtahid: Journal of Islamic Family Law* 2, no. 1 (2022): 60–72.

*nikah* program shows that religious legal institutions do not operate in a sterile environment but respond to community dynamics adaptively. Cooperation between the KUA, the Religious Court (*Pengadilan Agama*), and the local government is concrete evidence of the institutional implementation of *Maslahah mursalah*. Moreover, *Maslahah mursalah* also demands a *preventive value*, which is a long-term benefit. By encouraging the community to officially record their marriages, legal values are upheld not just through coercion, but through awareness. It is this awareness that will ultimately create a new legal culture among the grassroots community.

*“I hope that programs like this continue to exist. Many of our neighbors still do not have a marriage certificate either. If they are not helped and socialized, they might experience problems like we did before.”*

This statement shows that the practice of *isbat nikah* has triggered an internal drive within the community to become legally literate, a cultural transformation that is highly valuable in the perspective of *Maslahah mursalah*.

#### **Supporting and Inhibiting Factors of *Isbat nikah***

In the implementation of the *isbat nikah* practice in Way Kenanga Sub-district, there are a number of factors that are the main drivers of the program's success. One of the most significant supporting factors is the support from government officials, particularly from the Religious Affairs Office (KUA) and the Religious Court (*Pengadilan Agama*). These officials not only provide administrative services but also actively engage in outreach to the community regarding the importance of official marriage registration. Furthermore, the presence of integrated *isbat nikah* programs initiated by the local government accelerates the marriage legalization process for couples who were previously only married religiously. These programs typically provide cost assistance, procedure simplification, and legal consultation services, making it easier for couples from low-economic backgrounds to access *isbat nikah*.

Another contributing factor is the increasing public awareness of the importance of legal marriage status. This awareness arises along with the growing administrative needs in society, such as obtaining children's birth certificates, managing inheritance rights, and applying for social security such as BPJS. The community is beginning to understand that official marriage registration is not merely a formality but part of an effort to protect family rights in the long term. This collective awareness is often reinforced by personal experiences or stories from others who faced legal difficulties due to their unrecorded marriages. Therefore, in recent years, applications for *isbat nikah* in Way Kenanga Sub-district have shown a positive upward trend.

However, behind this progress, there are still various inhibiting factors that pose challenges to the implementation of *isbat nikah*. One of the main obstacles is the economic factor. The cost of filing for *isbat nikah* in the Religious Court, plus transportation and administrative fees at the KUA, is often considered burdensome by low-income communities. For some couples, daily economic needs are prioritized over seeking legal marriage status, leading to the *isbat nikah* process often being delayed or

even ignored.<sup>30</sup> Additionally, a lack of understanding of legal procedures causes many couples to feel afraid or reluctant to process *isbat nikah*, as the process is considered complicated and convoluted.

Another impediment encountered is legal uncertainty regarding child marriages, which are still common in rural areas. Many couples marry at an early age without official registration, so when they want to file for *isbat nikah*, they are constrained by age requirements or stricter regulations.<sup>31</sup> Furthermore, a difference in understanding between local culture and national law is also a constraint, where some community members still consider a religiously valid marriage to be sufficient without the need to involve the state. Therefore, to optimize the success of the *isbat nikah* practice, there need to be continuous efforts in the form of legal counseling, procedure simplification, cost subsidies for the less privileged, and a more adaptive cultural approach to bridge the gap between customary norms and state legal provisions.

### **Implications of *Isbat nikah* in Social, Legal, and Religious Perspectives**

The practice of *isbat nikah* (marriage legalization) does not merely bring administrative effects but has broad implications across social, legal, and religious dimensions. In Way Kenanga Sub-district, the *isbat nikah* program serves as the meeting point between the needs of the grassroots community and the state legal system and the teachings of Islamic *Shari'a*. These three dimensions are interconnected and form an inseparable order because they touch upon the essence of family existence in a Muslim society: socially recognized, legally protected, and religiously valid.

#### **1. Social Implications**

Sociologically, marriage registration is not just a matter of formality; it concerns the social recognition of family status.<sup>32</sup> In a rural community like Way Kenanga, legal marriage status becomes a source of legitimacy for couples to actively participate in social life. Couples without a marriage certificate often feel awkward or insecure when participating in social activities that involve official documents, such as school registration, health services, or religious activities in mosques and *majlis taklim* (religious assemblies). Ahmad Bahrudin, S.H., a KUA staff member, affirms that one of the most tangible impacts of *isbat nikah* is the increased confidence of couples in their social environment:

*“After getting the marriage certificate, they are more confident, especially when dealing with government agencies. So, this is not just about a document; it’s also about self-confidence and social recognition.”*

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<sup>30</sup> DEVIYANA KHOIROTUL ISWIYAH and Fairuz Sabiq, “Sistem Jual Beli Dropshipping Di Marketplace Shopee Perspektif Hybrid Contract Dan Maṣlaḥah Mursalah” (PhD Thesis, UIN RADEN MAS SAID SURAKARTA, 2023), [http://eprints.iain-surakarta.ac.id/7126/1/Tesis%20Devi\\_Upload.pdf](http://eprints.iain-surakarta.ac.id/7126/1/Tesis%20Devi_Upload.pdf).

<sup>31</sup> Habib Shulton Asnawi, “Status Hukum Dan Ham Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia,” *Istinbath: Jurnal Hukum* 12, no. 2 (2015): 167–93.

<sup>32</sup> Mahmud Huda and Noriyatul Azmi, *Legalisasi Nikah Siri Melalui Isbat nikah*, 2020, <http://journal.unipdu.ac.id/index.php/jhki/article/view/2367>.

This statement asserts that legal legitimacy is a means of obtaining social recognition. This is particularly crucial in patriarchal societies that evaluate family honor based on the clarity of relationships among family members. With *isbat nikah*, couples are no longer suspected of living in “cohabitation (*kumpul kebo*),” and their children are no longer overshadowed by the stigma of being illegitimate. This is reinforced by the testimony of Mrs. S, the wife of one of the informants:

*“We now feel legitimate in the eyes of the law, not just religion. Now, the children are also not embarrassed because all their documents are official..”*

Beyond recognition, the social effect of *isbat nikah* is also seen in the increased participation of families in community activities based on population documents.<sup>33</sup> Post-*isbat nikah*, families can print Family Cards (*Kartu Keluarga - KK*), obtain a valid NIK, and access social services such as food aid, health insurance, and educational scholarships. This functionally strengthens the integration of the family within the nation-state structure.

## 2. Legal Implications

Juridically, *isbat nikah* grants essential legal standing to the husband and wife. Before the *isbat* process, couples married religiously were not recognized by the state as official partners. This led to ambiguity in many aspects, ranging from population registration, inheritance, maintenance rights, to child custody.<sup>34</sup> After undergoing the *isbat* hearing at the Religious Court and obtaining a legal decree, the couple can register their marriage at the KUA and receive an official marriage certificate (*buku nikah*). This marriage certificate is the primary legal document in Indonesia’s civil law system to prove the existence of a legally valid state marriage. Bandarsyah, S.H., M.Pd., the Head of KUA, emphasizes the importance of this legality:

*“From a legal perspective, after isbat nikah is ratified by the Court, they can immediately register the marriage at the KUA and obtain an official marriage certificate. This facilitates many matters, including processing children’s birth certificates and claiming inheritance rights..”*

Another legal implication is protection for women. In unrecorded marriages, women lack legal evidence if domestic violence or divorce occurs. Many cases of spousal and child abandonment cannot be legally prosecuted due to the absence of official marriage documentation. *Isbat nikah* becomes an affirmative step to protect the rights of women and children and ensure justice in family relations. Furthermore, once the marriage is recorded, a child born from the relationship is entitled to a birth certificate with the names of both legal parents. This impacts the child’s legal status,

<sup>33</sup> Ahmad Fauzi, “*Isbat nikah* Solusi Bagi Nikah Siri,” *Jurnal Sosial Dan Sains* 1, no. 9 (2021): 978–84.

<sup>34</sup> Kairuddin Karim and Muhammad Akbar Fhad Syahril, “*Isbat nikah* Dalam Undang-Undang Perkawinan,” *Jurnal Litigasi Amsir* 9, no. 2 (2022): 142–50.

both in terms of inheritance and obtaining identity documents like the Child Identity Card (*Kartu Identitas Anak* - KIA). As stated by Mr. R, a field informant:

*“Now after the isbat, the children’s birth certificates have also been issued, and all their status is clear.”*

From the legal standpoint, *isbat nikah* does not just resolve the past (the unrecorded marriage) but also serves as a foundation for the future. All civil rights of the couple and children become legally protected, which is the essence of the principle *al-dharar yuzāl* (harm must be removed) in Islamic law.

### 3. Religious Implications

From the religious aspect, *isbat nikah* holds a profound meaning. Although the religious marriage is considered valid by most Muslims, the ratification through *isbat nikah* reinforces the value of *tathbit al-huqūq* (strengthening of rights) in Islam. State legality complements the religious command that the husband-wife relationship should be based on clarity, openness, and legal protection.<sup>35</sup> In Islam, marriage is a sacred contract that binds two individuals in moral and social responsibility. When a marriage is only performed religiously without being recorded, the dimension of social justice in Islam is not fully fulfilled. Marriage registration, including through the *isbat* process, is part of *iqāmat al-adl* (the upholding of justice) in household life. *Maslahah mursalah*, as the legal analysis basis in this research, also indicates that state legality is a form of protection for the *maqāṣid al-syarī’ah* (objectives of Islamic law): safeguarding lineage (*hifz al-nasl*), safeguarding the wife’s rights (*hifz al-’ird*), and safeguarding family stability (*hifz al-nafs*). Therefore, although not explicitly mentioned in the *nash* (textual evidence), the practice of *isbat nikah* is a tangible form of contextual *ijtihad* (independent reasoning) in responding to the challenges of the time.<sup>36</sup> Mrs. S’s statement confirms the spiritual peace gained after obtaining the legal document:

*“I feel more at peace and have security. Before, we were often anxious if anything happened because there was no proof that I was the legal wife.”*

This statement confirms that *isbat nikah* provides a sense of inner and spiritual security. In this context, state law and religious law do not conflict; rather, they complement each other for the greater good of the family.

## CONCLUSION

The practice of *isbat nikah* (marriage legalization) is not merely an administrative process, but a comprehensive legal, social, and religious solution. Through *isbat nikah*,

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<sup>35</sup> Meita Djohan Oelangan, “*Isbat nikah* Dalam Hukum Islam Dan Perundang-Undangan Di Indonesia,” *Pranata Hukum* 8, no. 2 (2013), <https://core.ac.uk/download/pdf/297032764.pdf>.

<sup>36</sup> Al Haq, “Analisis *Maslahah mursalah* Terhadap Sidang *Isbat nikah* Terpadu Oleh Pengadilan Agama Sampang.”



marriages that were previously only religiously valid gain official state recognition, ensuring the couple and their children obtain legal status and access to public services. From a social perspective, *isbat nikah* enhances self-confidence and social recognition; legally, it provides protection for civil rights such as inheritance, maintenance, and birth certificates; and religiously, it strengthens Islamic values by safeguarding lineage (*nasab*) and family responsibility. Based on the *Maslahah mursalah* approach, this practice aligns with the *maqāṣid al-syarī'ah* (objectives of Islamic law) as it protects lineage, honor, and welfare. In Way Kenanga Sub-district, the successful implementation of *isbat nikah* is supported by the collaboration of the KUA (Religious Affairs Office), the Religious Court (*Pengadilan Agama*), and the government through mobile *isbat* hearings. However, obstacles such as economic limitations, low legal literacy, and cultural barriers remain challenges, necessitating a participatory strategy to expand its implementation fairly and inclusively.

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